

REMARKS

This Amendment is responsive to the Final Action dated June 4, 2004. The claim amendments included herein are merely clarifying amendments and are not meant to change the intended scope of the claims. Thus, the amendments present the rejected claims in better form for consideration on appeal, and should be entered in due course. Moreover, the amendments are manifest, requiring only a cursory review by the Examiner, thereby providing additional ground for their entry.

Claims 83-88 were pending in the application. In the Final Action, claims 83-88 were rejected. In this Amendment, claims 83, 85, 86 and 88 have been amended. Claims 83-88 thus remain for consideration.

Applicants submit that claims 83-88 are in condition for allowance and request reconsideration and withdrawal of the rejections in light of the following remarks.

§103 Rejections

Claims 83, 84, 86 and 87 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barnhart et al. (US Patent No. 6,298,220) in view of Fifield (US Patent No. 6,178,512).

Claims 85 and 88 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barnhart in view of Fifield and Wheatley, III et al. (US Patent No. 6,381,230).

Regarding claims 84 and 87, Applicants submit that neither Barnhart, Fifield nor Wheatley discloses “sending a request message [from the communication device] to the other communication device in order to receive a transmit power information.” In particular, Applicants wish to comment on the Barnhart reference. As can be seen from Barnhart’s column

5, lines 30-41 and 60-62, Barnhart discloses that a first unit may send a message to a second unit indicating what power level the second unit should use for transmission. However, such message is not sent in response to a request from the second unit. Accordingly, Barnhart fails to disclose a system in which a first unit sends a request message to a second unit so that the second unit will transmit a transmit power information to the first unit. Therefore, Applicants believe that claims 84 and 87 are patentable over Barnhart, Fifield and Wheatley – taken either alone or in combination – on at least this basis.

Regarding claims 83, 85, 86 and 88, each of the claims recites “setting up direct communications in-between said communication devices in order to directly exchange messages between said communication devices, wherein said messages contain MAC (Medium Access Control) identifiers for identifying said communication devices respectively.” Supporting disclosure for this aspect of Applicants’ invention can be found in the specification at, for example page 6, lines 20-25. Specifically, page 6, lines 20-25 discloses how the source and destination identifiers, i.e. the MAC-IDs MT1 and MT2, could be included so that the receiving mobile terminal can identify the link for which the recommendation is valid.

Contrary thereto, Fifield (U.S. Patent 6,178,512) teaches in column 5, lines 11-19, that a “control section 302 is used by the enhanced wireless terminal 202 acting as base station to allocate slots to wireless terminals 102, 103 in the remainder of the frame. There are no separate downlink and uplink sections. Instead there is a data transfer section 405, where transfer of data from one wireless terminal 102, 103 to another occurs in the slots allocated to it, the allocation of which was detailed during the control section 302.”

Fifield only discloses a peer-to-peer communication in which the communication devices can be identified by allocating a predetermined time slots for each communication

device. We recognize no teaching of Fifield as regards a direct communication for exchanging messages which contain MAC (Medium Access Control) identifiers for identifying said communication devices. Indeed, Fifield teaches away from such use of MAC identifiers since it solves the problem of link identification via controlled allocation of time slots. It follows from the above that the combined teachings of Barnhart, Wheatley and Fifield likewise teach away from this claimed feature since Barnhart and Wheatley are silent as regards link identification. Accordingly, Applicants believe that claims 83, 85, 86 and 88 are patentable over Barnhart, Fifield and Wheatley – taken either alone or in combination – on at least this basis.

Applicant respectfully submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicant's undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:



Bruno Polito
Reg. No. 38,580
(212) 588-0800